IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

WP(C).No. 29390 of 2005(W)

PETITIONER:

PARAKKADAVU SIVAKSHETHRAM,
PUTHUSSERIKONAM, REPRESENTED BY THE SECRETARY,
N.S.S. KARAYOGAM, NO.1420, PUTHUSSERIKONAM,
EZHUKONE VILLAGE.

BY ADV. SRI.GOVIND K.BHARATHAN
SRI.MANU MOHAN
SMT.M.HEMALATHA

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, SECRETARIAT,THIRUVANANTHAPURAM

2. THE DISTRICT COLLECTOR, KOLLAM.

3. THE TAHSILDAR,
KOTTARAKKARA, KOLLAM DISTRICT.

BY GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE ORDER NO.G.O.M.S.NO.22 DT. 07/01/1963.

EXT.P2: TRUE COPY OF THE JUDGMENT IN O.S.NO.300/1978 DATED 30/11/1978 OF THE MUNSIFF COURT, KOTTARAKKARA.

EXT.P3: COPY OF THE WRITTEN STATEMENT FILED BY THE 1ST RESPONDENT IN O.S.NO.300/1973 OF THE DISTRICT MUNSIFF COURT, KOTTARAKKARA.

EXT.P4: TRUE COPY OF THE REGISTRATION COPY OF THE DOCUMENT EXECUTED BY SRI. VAVA KOCHIKKA IN THE YEAR 1998 IN FAVOUR OF ONE MATHUNNI.

EXT.P5: TRUE COPY OF THE DEMARACATION SKETCH PREPARED IN 1957 BY THE TECHNICAL ASST. CENTRAL SURVEY OFFICE, TRIVANDRUM.

EXT.P6: TRUE COPY OF THE LITHO PLAN PREPARED IN 2001 BY THE TECHNICAL ASSISTANT RE-SURVEY OFFICE, KOLLAM.

EXT.P7: TRUE COPY OF THE COMMISSION REPORT WITH PLAN BEFORE THE MUNSIFF COURT KOTTARAKKARA IN O.S.151/2000.

EXT.P7A: TRUE COPY OF THE COMMISSION REPORT WITH PLAN DATED 4.4.1978 BEFORE THE MUNSIFF COURT, KOTTRAKKARA IN O.S.300/1973.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)NO.29390 OF 2005

DATED THIS THE 22nd DAY OF AUGUST, 2007

JUDGMENT

This writ petition is filed by the petitioner seeking the following reliefs.

> "i) to declare that the petitioner is entitled to get assignment of 74 cents of land comprised in Sy.No.674/6 of Ezhukone Village, Kollam district, on the basis of long, continued and uninterrupted possession of the same.
>
> ii) to issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents to complete the further proceedings in pursuance to Ext.P1 and thus implement Ext.P1 forthwith and strictly in accordance with law"

2. In the counter affidavit filed by the State in paragraph 10 it is stated thus:

> "As a result of the various litigations filed in the various Courts by the parties having interest over the above mentioned 134 cents of land, in old Sy.No.674/6, the Ext.P1 Government order could not be implemented in time. In this instance, it is pertinent to state that at the time of issuing the Ext.P1 Government Order, an extent of 48 cents and another extent of 8 cents included in the 74 cents were under the possession of two different persons namely Abdulkhader and Idikkula Mathunny. At the same time, the Siva

> temple authorities has actual possession only over an extent of 13 cents. The remaining 5 cents was unoccupied paratharisu. It is also seen from the Ext.P1 order itself that the LC cases taken against the above Abdulkhader and Mathunny were pending even at the time of issuing the above G.O. Similarly, it has also been very clearly stated in the said G.O. that the 74 cents of Tharisu land has been ordered to be assigned to the temple authorities to avoid communal troubles as the other occupants of a major portion of land near the Siva temple belong to other religion. Therefore itself, before initiating action to assign the 74 cents of land in full to the NSS Karayogam, it has to be confirmed whether NSS Karayogam is in actual possession of the 74 cents of land in question. The land in question is now being occupied by a few other persons other than those mentioned above. The resurvey records in respect of the above 134 cents are not helpful to identify the assigned and unassigned lands in the above survey number. Therefore, copies of sketches of old Sy.No.674/6 having 134 cents, which are helpful to identify the assigned 60 cents and the remaining unassigned land have been traced out and forwarded to the Tahsildar, Kottarakara to identify the land to be assigned to NSS Karayogam and to take suitable action to assign those lands which are under the absolute possession and enjoyment of the NSS Karayogam and also to take steps to evict unauthorised occupations, if any, on the land ordered to be assigned to NSS Karayogam".

3. I have heard the learned Government pleader also. The learned Government pleader submits that to complete the proceedings as stated in the counter affidavit, the respondents may be granted six months' time.

After hearing both sides, I dispose of this writ petition with a direction to the respondents to see that the proposed action as stated in the counter affidavit be completed so as to enable the petitioner to get the land absolutely, within a period of six months from the date of receipt of a copy of this judgment.

S. SIRI JAGAN, JUDGE

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